

STATE OF NEW HAMPSHIRE

**HILLSBOROUGH, SS.
NORTHERN DISTRICT**

SUPERIOR COURT

State of New Hampshire

v.

Adam Montgomery

Docket No. 216-2022-CR-02372

ORDER

The defendant is charged with second degree murder, abuse of a corpse, falsifying physical evidence, and witness tampering in connection with the death of his daughter, Harmony Montgomery. On April 20, 2023, the Court granted a motion by WMUR-TV to unseal a probable cause affidavit filed in connection with this case. The defendant now moves for reconsideration. WMUR-TV has not responded. The State again takes no position, asking only for twenty-four hours' notice before the document is unsealed to comply with the Victim's Bill of Rights.

A motion for reconsideration "shall state, with particular clarity, points of law or fact that the court has overlooked or misapprehended." Super. Ct. R. 12(e). Here, the defendant first challenges the substance of the Court's decision, arguing the affidavit at issue serves no purpose in the file because it was not introduced in support of a motion or argument by either party. The Court is not persuaded. The defendant cites no authority for the apparent propositions that the affidavit was improperly filed with the Court or that one-sided recitations of prejudicial facts must be excluded from the record. The fact that the defendant did not have an opportunity to respond to the facts contained in the affidavit


does not constitute a sufficiently compelling interest which outweighs the public's right of access to [court] records." State v. Kibby, 170 N.H. 255, 258 (2017). The defendant will have every opportunity to challenge the State's position throughout the litigation of this case.

The defendant argues in the alternative that the probable cause affidavit should remain under seal until the completion of his trial in Docket No. 216-2022-CR-577, which is scheduled for jury selection on May 31, 2023. The defendant maintains that the facts in the affidavit are unrelated to the charges and evidence to be introduced in the upcoming trial, which revolves around the theft and possession of firearms. The defendant argues the release of the graphic details of the murder investigation so close to the trial will unfairly prejudice him and taint the jury.

As noted above, WMUR-TV has not objected to the defendant's motion for reconsideration, and has thus not articulated any compelling reasons for disclosure prior to the upcoming trial. Given the close proximity to the trial in Docket No. 216-2022-CR-577, the Court agrees with the defendant that public release of the affidavit at this time would cause an unreasonable and unnecessary risk of prejudice to the defendant. The affidavit shall remain under seal for a period of ten (10) days following the delivery of a verdict in the upcoming trial. After that time, the affidavit shall be unsealed.

SO ORDERED.

May 15, 2023
Date



Amy B. Messer
Presiding Justice

Clerk's Notice of Decision
Document Sent to Parties
on 05/15/2023